

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

AMERICAN PATENTS LLC,  Plaintiff,  v.  HUAWEI DEVICE USA, INC. et al.,  Defendants.	CIVIL ACTION NO. 4:18-cv-672-ALM  <b><u>JURY TRIAL DEMANDED</u></b>
AMERICAN PATENTS LLC,  Plaintiff,  v.  ACER INC.,  Defendant.	CIVIL ACTION NO. 4:18-cv-697-ALM  <b><u>JURY TRIAL DEMANDED</u></b>
AMERICAN PATENTS LLC,  Plaintiff,  v.  ASUSTEK COMPUTER INC.,  Defendant.	CIVIL ACTION NO. 4:18-cv-698-ALM  <b><u>JURY TRIAL DEMANDED</u></b>
AMERICAN PATENTS LLC,  Plaintiff,  v.  HP INC.,  Defendant.	CIVIL ACTION NO. 4:18-cv-700-ALM  <b><u>JURY TRIAL DEMANDED</u></b>

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Complying with P.R. 4-3, Plaintiff American Patents LLC (“American Patents”) and Defendants Huawei Device USA Inc., Huawei Device (Shenzhen) Co., Ltd., Huawei Device Co., Ltd. (“Huawei”); Acer Inc. (“Acer”); Asustek Computer Inc. (“Asustek”); and HP Inc. (“HP”) (together, “Defendants”) jointly submit this Joint Claim Construction and Prehearing Statement setting forth the parties’ proposed constructions for the herein identified terms, phrases, or clauses of U.S. Patent Nos. 7,088,782 (“the ‘782 patent”), 7,310,304 (“the ‘304 patent”), 7,706,458 (“the ‘458 patent”), 7,373,655 (“the ‘655 patent”), 7,934,090 (“the ‘090 patent”), 6,004,049 (“the ‘049 patent”), and 6,301,626 (“the ‘626 patent”).

#### **I. Agreed Constructions (P.R. 4-3(a))**

The parties have agreed on the construction of the claim terms in the table below.

#	Claim Term(s), Phrase(s), or Clause(s)	Agreed Construction
1	<p>synchronize the received frame in a time domain and frequency domain</p> <p>synchronize the received frame in both time domain and frequency domain</p> <p>synchronizing the received demodulated frame to the transmitted frame such that the data symbols are synchronized in the time domain and frequency domain</p> <p>synchronizing the one or more received frames in a time domain; synchronizing the one or more received frames on a frequency domain</p> <p>the data symbols are synchronized in the time domain and frequency domain</p>	<p>Plain and ordinary meaning, except “on a frequency domain” means “in a frequency domain”</p>

#	Claim Term(s), Phrase(s), or Clause(s)	Agreed Construction
	(Claims 1-12, 15-19, 23-24, 30 of the '782 Patent, Claims 1-8, 10-12, 19, 20 of the '458 Patent, and Claim 11 of the '304 Patent)	
2	An apparatus for synchronizing a Multi-Input, Multi-Output (MIMO) Orthogonal Frequency Division Multiplexing (OFDM) system, the apparatus comprising:  (Claim 1 of the '782 Patent)	The preamble is limiting
3	A method for synchronizing a Multi-Input Multi-Output (MIMO) Orthogonal Frequency Division Multiplexing (OFDM) system in time and frequency domains, the method comprising the steps of:  (Claim 30 of the '782 Patent)	The preamble is limiting
4	An apparatus for synchronizing a communication system, the apparatus comprising:  (Claims 1 and 19 of the '458 Patent)	The preamble is limiting
5	A method for synchronizing a Multi-Input Multi-Output (MIMO) Orthogonal Frequency Division Multiplexing (OFDM) system in time domain and frequency domain, the method comprising:  (Claims 12, 20, and 21 of the '458 Patent)	The preamble is limiting
6	A transmitter in an Orthogonal Frequency Division Multiplexing (OFDM) system, the transmitter comprising:  (Claim 1 of the '304 Patent)	The preamble is limiting
7	A method of configuring an input device for a data processing system, the input device having a set of display elements capable of	The preamble is limiting

#	Claim Term(s), Phrase(s), or Clause(s)	Agreed Construction
	displaying symbols, the method comprising:  (Claims 21, 23 (via Claim 1) of the '049 Patent)	
9	A method, executed on a data processing system, that facilitates the configuration of an input device having a set of display elements, comprising the steps of:  (Claim 20 of the '049 Patent)	The preamble is limiting
10	A processor designed to configure an input device having a set of display elements capable of displaying symbols, comprising:  (Claim 8 of the '626 Patent)	The preamble is limiting
11	taking an N-point Fast Fourier Transform  (Claims 34 and 50 of the '782 Patent and Claim 12 of the '458 Patent)	Plain and ordinary meaning
12	coarse lime	coarse time
13	means for demodulating the obtained frame  (Claims 16, 22 of the '458 Patent)	<u>Function</u> : demodulating the obtained frame  <u>Structure</u> : OFDM demodulators 22 and equivalents thereof
14	Claim preambles	Other than the preamble terms agreed above or disputed below, preambles are non-limiting

The parties will continue working together to narrow the number of disputed claim terms.

## II. Disputed Claim Terms, Phrases or Clauses (P.R. 4-3(b))

The parties' proposed constructions of each disputed claim term, phrase, or clause of the asserted patents are set forth below, separated by patent family. Identification of evidence that supports these constructions is attached as Exhibit 1.

**U.S. Patent Nos. 7,088,782 (“the ‘782 Patent”); 7,310,304 (“the ‘304 Patent”); and 7,706,458 (“the ‘458 Patent”) (collectively “the Mody Patents”)**

#	Claim Term(s), Phrase(s), or Clause(s)	American’s Proposed Construction	Defendants’ Proposed Construction
1	wherein the second frequency offset estimation circuit is used to correct the frequency of the receiving local oscillator  (Claim 9 of the ‘782 Patent and Claim 5 of the ‘458 Patent)	wherein the second frequency offset estimation circuit is used to adjust for frequency differences between transmitting and receiving local oscillators	“wherein the second frequency offset estimation circuit is used to provide a feedback signal to adjust the frequency of the local oscillator to the local oscillator of the transmitter”
2	repeating received samples of the received frame a number of times  (Claim 34 of the ‘782 Patent and Claim 12 of the ‘458 Patent)	using received samples of the received frame one or more times	Plain and ordinary meaning
3	performing a cross-correlation procedure in the frequency domain  (Claim 34 of the ‘782 Patent and Claim 12 of the ‘458 Patent)	performing a correlation procedure between the received signal and a known reference signal to estimate the integer portion of the frequency offset	Plain and ordinary meaning
4	repeating the time domain sequence a number of times  (Claim 50 of the ‘782 Patent)	using the time domain sequence one or more times	Plain and ordinary meaning
5	generating an N-point representation of the transmitted sequence in the frequency domain  (Claim 50 of the ‘782 Patent)	generating a representation of the transmitted sequence in the frequency domain using N samples	Plain and ordinary meaning
6	optimum time instant  (Claim 4 of the ‘782 Patent and Claim 4 of the ‘458 Patent)	plain and ordinary meaning  <i>or, in the alternative,</i>  synchronized start time	Indefinite
7	resembles an existing space-time block code,	has/having qualities or features in common with	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	resembling an existing space-time block code  (Claims 44, 51 of the '782 Patent, Claim 7 of the '304 Patent, Claims 15, 17, 21, 22 of the '458 Patent)	a pre-defined space-time block code	
8	signal transmission matrix having an existing pseudo inverse matrix  (Claim 8 of the '304 Patent)	signal transmission matrix having a pre-defined pseudo inverse matrix	Indefinite
9	each OFDM demodulator corresponding to a respective receiving antenna  (Claims 1-12, 15-19, 23-24 of the '782 Patent, Claims 1-8, 10-11, 18, 19 of the '458 Patent)	plain and ordinary meaning	Plain and ordinary meaning: "each separate OFDM demodulator corresponding to a respective receiving antenna"
10	individual circuits  (Claims 1-12, 15-19, 23-24 of the '782 Patent, Claims 10, 18 of the '458 Patent)	plain and ordinary meaning	"non-shared discrete circuits"
11	over a particular window  (Claim 6 of the '782 Patent, Claim 4 of the '458 Patent)	plain and ordinary meaning	Indefinite
12	a space-time processor  (Claims 16, 24 of the '782 Patent, Claim 5 of the '304 Patent, Claims 7, 11, 19 of the '458 Patent)	plain and ordinary meaning	Indefinite
13	enhancing a fine time synchronization performance  (Claim 38 of the '782 Patent, Claims 14, 20 of the '458 Patent)	part of a non-limiting statement of intended result  <i>or, in the alternative,</i>  enhancing a fine time synchronization	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
		performance relative to a training symbol without an orthogonal sequence	
14	space-time block code  (Claims 44, 51 of the '782 Patent, Claim 7 of the '304 Patent, Claims 15, 17, 21, 22 of the '458 Patent)	plain and ordinary meaning	Indefinite
15	chirp-like sequences  (Claims 45, 46 of the '782 Patent, Claims 15, 17, 21, 22 of the '458 Patent)	plain and ordinary meaning	Indefinite
16	countering an extended channel impulse response  (Claim 47 of the '782 Patent, Claims 1-10 of the '304 Patent, Claims 14, 20 of the '458 Patent)	part of a non-limiting statement of intended result  <i>or, in the alternative,</i>  performing better in the presence of an extended channel impulse response than when using a shorter cyclic prefix	Indefinite
17	improving synchronization  (Claim 47 of the '782 Patent, Claims 1-10 of the '304 Patent, Claims 14, 20 of the '458 Patent)	part of a non-limiting statement of intended result  <i>or, in the alternative,</i>  having better synchronization properties than when using a shorter cyclic prefix	With respect to "improving": Indefinite  With respect to "synchronization": "both time and frequency synchronization"
18	transmit diversity branches  (Claims 1-10 of the '304 Patent)	plain and ordinary meaning	"multiple paths for processed data symbols"
19	the cyclic prefixes within the training symbol are longer than the cyclic prefixes among the data symbols	plain and ordinary meaning	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	(Claims 1-10 of the '304 Patent)		
20	space-time matrix  (claim 13 of the '304 Patent)	plain and ordinary meaning  <i>or, in the alternative,</i>  signal transmission matrix	Indefinite
21	zero-padding in the frequency domain to eliminate certain frequency components from the OFDM signal  (Claims 11-13 of the '304 Patent)	setting the unused sub-channels in the OFDM block to zero to eliminate certain frequency components from the OFDM signal	"setting the non-modulated sub-channels in the OFDM block to zero to eliminate certain frequency components from the OFDM signal"
22	making use of a sub-carrier having a sub-carrier spacing transmitted from an OFDM transmitter  (Claims 12-15 of the '458 Patent)	plain and ordinary meaning	Indefinite
23	training structure  (Claims 1-10 of the '304 Patent)	plain and ordinary meaning	"entire preamble"
24	the training symbol  (Claims 1-10, 13 of the '304 Patent)	plain and ordinary meaning	Indefinite
25	means for obtaining a transmitted frame having an originally transmitted form and making use of a sub-carrier having a sub-carrier spacing  (Claims 16, 22 of the '458 Patent)	<u>Function:</u> obtaining a transmitted frame having an originally transmitted form and making use of a sub-carrier having a sub-carrier spacing  <u>Structure:</u> receiving antennas 20 and equivalents thereof	Structure: "receiving antennas 20, OFDM demodulators 22, and decoder 24"  Function: "obtaining a transmitted frame having an originally transmitted form and making use of a sub-carrier having a sub-carrier spacing"



#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
26	means for synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain  (Claim 16 of the '458 Patent)	<u>Function:</u> synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain  <u>Structure:</u> synchronization circuit 61 and equivalents thereof	Structure: "Synchronization circuit 61 and OFDM demodulator 22."  Function: "synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain"
27	means for coarse time synchronization  (Claim 16 of the '458 Patent)	<u>Function:</u> coarse time synchronization  <u>Structure:</u> coarse time synchronization circuit 66 and equivalents thereof	Structure: "coarse time synchronization circuit 66, auto correlation circuit 75, automatic gain control (AGC) circuit 80."  Function: "coarse time synchronization"
28	means for fine time synchronization  (Claim 16 of the '458 Patent)	<u>Function:</u> fine time synchronization  <u>Structure:</u> fine time synchronization circuit 72 and equivalents thereof	Structure: "fine time synchronization circuit 72, frequency offset correction circuit 74"  Function: "fine time synchronization"
29	means for synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain, wherein the means for synchronizing comprises means for coarse time synchronization and means for fine time synchronization  (Claim 16 of the '458 Patent)	<i>see constructions of component parts above</i>	Structure: "Synchronization circuit 61 and OFDM demodulator 22."  Function: "synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain"

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
30	means for estimating a frequency offset to within one half of the sub-carrier spacing  (Claim 16 of the '458 Patent)	<u>Function:</u> estimating a frequency offset to within one half of the sub-carrier spacing  <u>Structure:</u> first frequency offset estimation circuit 68 and equivalents thereof	<i>see longer phrase below</i>
31	means for repeating samples of the obtained frame a number of times  (Claim 16 of the '458 Patent)	<u>Function:</u> using received samples of the received frame one or more times  <u>Structure:</u> fine time synchronization circuit 72 and equivalents thereof, or second frequency offset estimation circuit 70 and equivalents thereof	<i>see longer phrase below</i>
32	means for taking an N-point Fast Fourier Transform (FFT)  (Claim 16 of the '458 Patent)	<u>Function:</u> performing a Fast Fourier Transform  <u>Structure:</u> fine time synchronization circuit 72 and equivalents thereof, or second frequency offset estimation circuit 70 and equivalents thereof	<i>see longer phrase below</i>
33	means for performing a cross-correlation procedure in the frequency domain  (Claim 16 of the '458 Patent)	<u>Function:</u> performing a cross-correlation procedure between the received signal and a known reference signal to estimate the integer portion of the frequency offset	<i>see longer phrase below</i>

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
		<u>Structure:</u> second frequency offset estimation circuit 70 and equivalents thereof	
34	wherein the means for synchronizing further comprises means for estimating a frequency offset to within one half of the sub-carrier spacing, means for repeating samples of the obtained frame a number of times, means for taking an N-point Fast Fourier Transform (FFT), and means for performing a cross-correlation procedure in the frequency domain  (Claim 16 of the '458 Patent)	<i>see constructions of component parts above</i>	Structure: "first frequency offset estimation circuit 68, second frequency offset circuit 70, discrete fourier transform (DFT) stage 64, frequency offset correction circuit 74, local oscillator 59."  Function: "synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain"
35	means for synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain  (Claim 22 of the '458 Patent)	<u>Function:</u> synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain  <u>Structure:</u> synchronization circuit 61 and equivalents thereof	Structure: "Synchronization circuit 61 and OFDM demodulator 22."  Function: "synchronizing the frame to the originally transmitted form to thereby synchronize the data symbols in both time domain and frequency domain"

**U.S. Patent Nos. 7,373,655 (“the ‘655 Patent”) and 7,934,090 (“the ‘090 Patent”) (collectively “the Maria Patents”)**

#	Claim Term(s), Phrase(s), or Clause(s)	American’s Proposed Construction	Defendants’ Proposed Construction
1.	Order of steps	Steps must be performed in order only as dictated by the logic of the claim language.	Each step must be performed in its claimed order.
2.	pre-authorized to access  pre-authorized to access the network resource  (Claim 5 of the ‘655 Patent, Claims 1, 9 of the ‘090 Patent)	authorized to access before any request is received  authorized to access the network resource before any request is received	authorized, by nature of [the network node's / the network element's] identity, to access a set of network resources without any authentication process
3.	assume the identity of the network element  assume [the/an] identity of [the/a] network node  (Claim 5 of the ‘655 Patent, Claims 1, 9 of the ‘090 Patent)	adopt the identity-based authorization of the network element  adopt the identity-based authorization of the network node	appear to the network as if it were the network element/network node
4.	determining that the first user is authorized  determine that the first user is authorized  after verifying that the first user is authorized  verify that the first user is authorized  (Claims 1, 9, 12 of the ‘090 Patent)	plain and ordinary meaning	Indefinite
5.	configured to  (Claims 9, 12 of the ‘090 Patent)	plain and ordinary meaning	actually programmed or equipped with hardware or software to
6.	arranging a network element in a network	plain and ordinary meaning	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	(Claim 5 of the '655 Patent)		
7.	user  (Claims 5, 7 of the '655 Patent, Claims 1, 4, 9, 12 of the '090 Patent)	end user device	end user device which accepts input directly from a human operator
8.	based on the user's assuming the identity of the network element  based on the first user assuming the identity of the network node  based on the second user assuming the identity of the network node  (Claim 5 of the '655 Patent, Claims 1, 9 of the '090 Patent)	plain and ordinary meaning (but see constituent terms above)	using only the identity of the network element/node
9.	table of authorized identifiers  (Claims 4, 12 of the '090 Patent)	plain and ordinary meaning	table correlating user identifications with accessible network resources
10.	plurality of access privileges associated therewith  plurality of access privileges associated with the network node  (Claims 1, 9 of the '090 Patent)	plain and ordinary meaning	set of access privileges associated with the network node by nature of its identity
11.	computer readable program code configured to receive a request to allow a first user to assume an identity of a network node that is pre-authorized to access the network resource	plain and ordinary meaning (but see constituent terms above); not governed by 112(6),  <i>or, in the alternative,</i>  <u>Function:</u>	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	(Claim 9 of the '090 Patent)	<p>receiving a request to allow a first user to assume an identity of a network node</p> <p><u>Structure:</u></p> <p>(a) logical ports 261 to 264 and equivalents thereof, and/or (b) programs stored in memory such as VIC database 330 that cause CPU 320 to perform the algorithm described at 3:22-4:29 and equivalents thereof</p>	<p>Function: Receive a request to allow a first user to assume an identity of a network node that is pre-authorized to access the network resource</p> <p>Structure: None</p>
12.	<p>computer readable program code configured to verify that the first user is authorized, and to allow the first user to assume the identity of the network node that is pre-authorized</p> <p>(Claim 9 of the '090 Patent)</p>	<p>plain and ordinary meaning (but see constituent terms above); not governed by 112(6)</p> <p><i>or, in the alternative,</i></p> <p><u>Function:</u></p> <p>verifying that the first user is authorized and allowing the first user to assume the identity of the network node that is pre-authorized</p> <p><u>Structure:</u></p> <p>programs stored in memory such as VIC database 330 that cause CPU 320 to perform the algorithm described at 3:22-4:29 and equivalents thereof</p>	<p>Governed by 35 U.S.C. § 112 ¶ 6</p> <p>Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.</p> <p>Function: Verify that the first user is authorized, and to allow the first user to assume the identity of the network node that is pre-authorized</p> <p>Structure: None</p>

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
13.	<p>computer readable program code configured to allow the first user to access the network resource using the plurality of access privileges associated with the network node that is pre-authorized, based on the first user assuming the identity of the network node that is pre-authorized</p> <p>(Claim 9 of the '090 Patent)</p>	<p>plain and ordinary meaning; not governed by 112(6)</p> <p><i>or, in the alternative,</i></p> <p><u>Function:</u> allowing the first user to access the network resource using the plurality of access privileges associated with the network node that is pre-authorized</p> <p><u>Structure:</u> programs stored in memory such as VIC database 330 that cause CPU 320 to perform the algorithm described at 3:22-4:29 and equivalents thereof</p>	<p>Governed by 35 U.S.C. § 112 ¶ 6</p> <p>Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.</p> <p>Function: Allow the first user to access the network resource using the plurality of access privileges associated with the network node that is pre-authorized, based on the first user assuming the identity of the network node that is pre-authorized, based on the first user assuming the identity of the network node that is pre-authorized</p> <p>Structure: None</p>
14.	<p>computer readable program code configured to receive an identifier associated with the first user</p> <p>(Claim 12 of the '090 Patent)</p>	<p>plain and ordinary meaning; not governed by 112(6)</p> <p><i>or, in the alternative,</i></p> <p><u>Function:</u> receiving an identifier associated with the first user</p> <p><u>Structure:</u> (a) logical ports 261 to 264 and equivalents thereof, and/or (b) programs stored in memory such as VIC database 330 that cause</p>	<p>Governed by 35 U.S.C. § 112 ¶ 6</p> <p>Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.</p> <p>Function: Receive an identifier associated with the first user</p> <p>Structure: None</p>

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
		CPU 320 to perform the algorithm described at 3:22-4:29 and equivalents thereof	
15.	computer readable program code configured to compare the identifier received to a table of authorized identifiers  (Claim 12 of the '090 Patent)	plain and ordinary meaning; not governed by 112(6)  <i>or, in the alternative,</i>  <u>Function:</u> comparing the identifier received to a table of authorized identifiers  <u>Structure:</u>  programs stored in memory such as VIC database 330 that cause CPU 320 to perform the algorithm described at 3:22-4:29 and equivalents thereof	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Compare the identifier received to a table of authorized identifiers  Structure: None
16.	computer readable program code configured to determine whether the identifier received matches any of the authorized identifiers  (Claim 12 of the '090 Patent)	plain and ordinary meaning; not governed by 112(6)  <i>or, in the alternative,</i>  <u>Function:</u> determining whether the identifier received matches any of the authorized identifiers  <u>Structure:</u>  programs stored in memory such as VIC database 330 that cause CPU 320 to perform the	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Determine whether the identifier received matches any of the authorized identifiers  Structure: None



#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
		algorithm described at 3:22-4:29 and equivalents thereof	

**U.S. Patent Nos. 6,004,049 (“the ‘049 Patent”) and 6,301,626 (“the ‘626 Patent”) (collectively “the Knox Patents”)**

#	Claim Term(s), Phrase(s), or Clause(s)	American’s Proposed Construction	Defendants’ Proposed Construction
1.	Order of steps	Steps must be performed in order only as dictated by the logic of the claim language.	Each step must be performed in its claimed order
2.	A computer-readable medium containing instructions for performing a method to configure an input device having a set of display elements capable of displaying symbols, the method comprising the steps of:  (Claim 1 of the ‘626 Patent)	The preamble is limiting	Indefinite
3.	display element  (Claims 20, 21, 23 (via Claim 1) of the ‘049 Patent, Claims 1, 8, 9 of the ‘626 Patent)	plain and ordinary meaning	a selectable button or area on the input device that displays a symbol
4.	input device layout  (All asserted claims of the ‘049 Patent, all asserted claims of the ‘626 Patent)	plain and ordinary meaning	arrangement of a set of characters for the display elements on the input device
5.	determining whether the input device layout is displayed  (Claim 20 of the ‘049 Patent)	plain and ordinary meaning	Indefinite
6.	identifies an input device layout  (Claim 9 of the ‘626 Patent)	plain and ordinary meaning	Indefinite
7.	based upon the determination  (Claims 1, 8, 9 of the ‘626 Patent)	plain and ordinary meaning	Indefinite
8.	A computer-readable medium containing instructions for performing a	plain and ordinary meaning	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	<p>method to configure an input device having a set of display elements capable of displaying symbols, the method comprising the steps of: selecting an input device layout; retrieving the input device layout from a network, wherein the retrieving step further includes the steps of: determining if the identified input device layout is already displayed on the input device; and downloading the identified input device layout over the network from a server having a plurality of input device layouts based upon the determination; and displaying a set of symbols on the display elements corresponding to the input device layout.</p> <p>(Claim 1 of the '626 Patent)</p>		
9.	<p>a processor connected to the network that identifies an input device layout, accesses the input device layout over the network, determines if the identified input device layout is already displayed on the input device, downloads the identified input device layout over the network from the server based upon the determination, and displays a set of symbols on the display elements corresponding to the input device layout</p> <p>(Claim 9 of the '626 Patent)</p>	plain and ordinary meaning	Indefinite

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
10.	means for identifying an input device layout  (Claim 8 of the '626 Patent)	<u>Function:</u> identifying an input device layout  <u>Structure:</u> (a) keyboard layout indicator switch 212 and equivalents thereof; (b) keyboard applet 114 and equivalents thereof; (c) layout flag and equivalents thereof; and/or (d) a processor configured to carry out the algorithms in FIG. 3, 4, and/or 5 and equivalents thereof	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Identifying an input device layout  Structure: None
11.	means for accessing the input device layout over a network  (Claim 8 of the '626 Patent)	<u>Function:</u> accessing the input device layout over a network  <u>Structure:</u> (a) network interface 106 and equivalents thereof; and/or (b) a processor configured to carry out the algorithms in FIG. 3 and/or FIG. 5 and equivalents thereof	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Accessing the input device layout over a network  Structure: None
12.	means for determining if the identified input device layout is already displayed on the input device  (Claim 8 of the '626 Patent)	<u>Function:</u> determining if the identified input device layout is already displayed on the input device  <u>Structure:</u> (a) step 304 of FIG. 3, steps 402, 406, and 410 of FIG. 4, and/or step 502 of FIG. 5 and	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Determining if the identified input device layout is already displayed on the input device

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
		equivalents thereof; and/or (b) a processor configured to carry out the algorithms in FIG. 3, 4, and/or 5 such that it (1) queries memory for parameters that indicate the keyboard layout in use on the input device and (2) checks whether the layout flag corresponds to the keyboard layout in use on the system and equivalents thereof	Structure: None
13.	means for downloading the identified input device layout over the network from a server having a plurality of input device layouts based upon the determination  (Claim 8 of the '626 Patent)	<u>Function:</u> downloading the identified input device layout over the network from a server having a plurality of input device layouts based upon the determination  <u>Structure:</u> (a) network interface 106 and equivalents thereof; and/or (b) a processor configured such that it carries out the algorithm in FIG. 3 and/or FIG. 5 to (1) locate the identified input device layout and (2) download the identified input device layout from a server and equivalents thereof	Governed by 35 U.S.C. § 112 ¶ 6  Indefinite due to absence of corresponding structure in the specification. 35 U.S.C. § 112 ¶ 2, ¶ 6.  Function: Downloading the identified input device layout over the network from a server having a plurality of input device layouts based upon the determination  Structure: None
14.	means for displaying a set of symbols on the display elements corresponding to the input device layout	<u>Function:</u> displaying a set of symbols on the display	Governed by 35 U.S.C. § 112 ¶ 6

#	Claim Term(s), Phrase(s), or Clause(s)	American's Proposed Construction	Defendants' Proposed Construction
	(Claim 8 of the '626 Patent)	<p>elements corresponding to the input device layout</p> <p><u>Structure:</u></p> <p>(a) display processor 129 and equivalents thereof;</p> <p>(b) a processor configured such that it (1) determines the current input device layout and (2) sends signals to a display causing it to display symbols corresponding to the input device layout and equivalents thereof;</p> <p>(c) a touch-screen and equivalents thereof; and/or (d) keyboard 110 and equivalents thereof</p>	<p>Function: Displaying a set of symbols on the display elements corresponding to the input device layout</p> <p>Structure: '626 patent at 5:14-16, 5:25-31, and 6:4-15.</p>
15.	<p>A data processing system that facilitates configuring an input device having a set of display elements, comprising:</p> <p>(Claim 9 of the '626 Patent)</p>	The preamble is limiting	Indefinite

### **III. Claim Construction Briefing And Hearing (P.R. 4-3(c), P.R. 4-3(d))**

#### **A. Length of Time for the Hearing**

The parties anticipate that the claim construction hearing will run about 5 hours in length.

#### **B. Witnesses**

The parties do not anticipate calling any witnesses at the *Markman* hearing in support of the parties' respective claim construction arguments.

### **IV. Other Issues**

#### **A. The number of pages for claim construction briefing**

- The parties request 45 pages for claim construction briefing because there are three separate patent families in this litigation.

#### **B. Plaintiff identifies the following issues that it contends should be taken up at a pre-hearing conference:**

- The order and timing of disclosure of expert declarations for terms that defendants contend are indefinite;
- Whether defendants have included allegedly indefinite terms not disclosed in their invalidity contentions;
- The order of briefing on indefiniteness terms; and
- Whether each side should have to identify the 10 disputed terms it believes are most significant to the resolution of the case, in order to focus briefing and to streamline the *Markman* hearing.

Plaintiff proposes that a telephonic prehearing conference to discuss these issues be scheduled at the Court's earliest convenience.

#### **C. Defendants contend the default provisions of the Local Patent Rules apply:**

- Defendants contend no pre-hearing conference is required because the default Local Patent Rules under P.R. 4-3 through 4-5 should apply in this case.

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Respectfully submitted,

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